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EXAMINER

CHAMBERS, TANGELA T

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/550,074
Filing Date: December 05, 2005
Appellant(s): MUHONEN, JANNE MARKUS

Phouphanomketh Ditthavong
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 28, 2009 appealing from the Office action mailed June 23, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2003/0186709	Rhodes et al	10-2003
2004/0259566	Maanoja et al	12-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 17-19, 21-22, 31-32 and 34-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Rhodes et al (Rhodes), (US Patent Publication Number 2003/0186709 A1).

As per claims 17, 21 and 35, Rhodes discloses:

- ***A method comprising establishing an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call***, (Rhodes, FIG. 1-FIG. 3 and Page 3, Paragraphs [0035]-[0041]).
- ***receiving an emergency call request***; (Rhodes, FIG. 3 and Page 3, Paragraph [0038], "FIG. 3 shows exemplary steps for a cell tower to route an emergency call to an appropriate switch, as shown in FIG. 1.").
- ***determining a first estimate of a position of said user's equipment within said radio coverage area***, (Rhodes, FIG. 5, Page 3, Paragraphs [0043]-[0044] and FIG. 10, Page 4, Paragraph [0058], "In sub-step A, the ISUP handler checks the switch profile for the cell site indicated by the GDP=ESRD and that indicates "routing based on position"."), As disclosed in the instant application, the first

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position estimate of the user's equipment is based on its geographical position and is accurate enough to route the call to the relevant PSAP. Rhodes teaches this by disclosing a method to route an emergency call to the appropriate PSAP based on the identity of the cell site sector serving the user's equipment.

- ***interrupting a call establishment of the emergency call***, (Rhodes, FIG. 3 and Page 3, Paragraphs [0038]-[0042] and Page 4, Paragraphs [0062]-[0072]), After the first position estimate of the user's equipment has been obtained, a switching center receives the first position estimate and sends a subscriber location report message to obtain the emergency services zone and have a unique emergency services routing key assigned.
- ***using a control point to select, based on said first position estimate which one of said at least two answering points the call is to be established with***, (Rhodes, FIG. 8 and Page 3, Paragraphs [0049]-[0053], "In sub-step B, the MPC/GMLC associates incoming latitude/longitude location or presence information for the caller's mobile station to the correct emergency services zone and PSAP as provisioned in the CRDB.").
- ***when an at least one answering point has been selected, resuming said call establishment, determining a second, more accurate, position estimate, and sending the second position estimate to the selected answering point***. (Rhodes, FIG. 9, Page 3, Paragraph [0054] – Page 4, Paragraph [0057] and Page 4, Paragraphs [0062]-[0072], "In sub-step A, updated call data is matched with the existing active call record created by IAM1 using MSISDN from SubLocRpt."), Rhodes teaches that the SubLocRpt Location Estimate is a more precise position estimate of the user's equipment and is available for retrieval by the system until the call is released.

As per claims 18 and 31, Rhodes discloses:

- ***non-call associated signalling is used wherein messages used to select the at least one of the two answering points during call establishment are***

separate from the messages used for the established call. (Rhodes, Page 2, Paragraph [0030] and Page 4, Paragraph [0075] – Page 5, Paragraph [0076]).

As per claims 19 and 32, Rhodes discloses:

- ***said selecting is done using the control point to translate the first position estimate, which is a geographical position into a routing number of the selected answering point.*** (Rhodes, FIG. 8, Page 3, Paragraphs [0049]-[0053] and Page 4, Paragraph [0072]). The coordinate routing database translates the geographical position of the user's equipment into a routing number of the selected answering point.

As per claim 22, Rhodes discloses:

- ***a base controller configured to control a base transceiver that provides a radio coverage area;*** (Rhodes, FIG. 1), A base controller is inherently a part of a GSM network.
- ***a switching centre configured to receive an emergency call request;*** (Rhodes, FIG. 1 and Page 3, Paragraph [0039]), A mobile switching center (MSC) is disclosed.
- ***a location centre configured to determine a first estimate of the position of a user's equipment within a coverage area;*** (Rhodes, FIG. 3 and Page 3, Paragraphs [0039]-[0042]), A gateway mobile location center (GMLC) used to determine a first estimate of the position of the user's equipment is disclosed.
- ***a control point configured to select which of at least two answering points the call is established with based on said first position estimate,*** (Rhodes, FIG. 8 and Page 3, Paragraphs [0049]-[0053], "In sub-step B, the MPC/GMLC associates incoming latitude/longitude location or presence information for the caller's mobile station to the correct emergency services zone and PSAP as provisioned in the CRDB.").
- ***wherein said call establishment is interrupted,*** (Rhodes, FIG. 3 and Page 3, Paragraphs [0038]-[0042]).

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- ***when at least one answering point has been selected, said switching centre is configured to resume said call establishment, and a second, more accurate, position estimate is determined and sent to the at least one answering point.*** (Rhodes, FIG. 9, Page 3, Paragraph [0054] – Page 4, Paragraph [0057] and Page 4, Paragraphs [0062]-[0072]).

As per claim 34, Rhodes discloses:

- ***establishing means for establishing an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call,*** (Rhodes, FIG. 1-FIG. 3 and Page 3, Paragraphs [0035]-[0041]).
- ***means for receiving an emergency call request,*** (Rhodes, Fig. 1 and Page 3, Paragraph [0039]), Rhodes teaches a mobile switching center.
- ***means for determining a first estimate of a position of said user's equipment within said radio coverage area,*** (Rhodes, Fig. 1 and Page 3, Paragraph [0042]), Rhodes teaches a location center.
- ***means for interrupting a call establishment of the emergency call,*** (Rhodes, Fig. 1 and Page 3, Paragraph [0039]), As disclosed in the current application, the control point is triggered by a switching center after the first position estimate of the user's equipment has been obtained.
- ***means for using a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and when at least one answering point has been selected,*** (Rhodes, FIG. 8 and Page 3, Paragraphs [0049]-[0053]), Rhodes discloses a coordinating routing database for selecting an answering point based on a first position estimate.
- ***means for resuming said call establishment,*** (Rhodes, Fig. 1 and Page 3, Paragraph [0039]).
- ***means for determining a second, more accurate, position estimate,*** (Rhodes, Fig. 1 and Page 2, Paragraph [0025] and Page 4, Paragraph [0057]).

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- ***means for sending the second position estimate to the selected answering point.*** (Rhodes, Page 4, Paragraph [0057]).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes et al (Rhodes), (US Patent Publication Number 2003/0186709 A1) in view of Maanoja et al (Maanoja) (US Patent Publication Number 2004/0259566 A1).

As per claims 20 and 33, Rhodes does not specifically disclose:

- ***the first position estimate is determined by using an identifier of said radio coverage area and timing advance information.*** However, Maanoja in an analogous art discloses the above limitation. (Maanoja, Page 3, Paragraph [0049], "The TA value and co-ordinates of the cell can be used to estimate the location of the MS.").

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Maanoja into Rhodes to determine the first position of the user's equipment using an identifier of a radio coverage area and timing advance information. The modification would be obvious because one of ordinary skill in the art would want to employ a method that would allow a user's equipment to be located in a manner that is very quick and accurate. (Maanoja, Page 3, TABLE 2).

(10) Response to Argument

Summary of Technology

In mobile communication systems, when a user dials an emergency telephone number using a mobile device, the call is routed to the Public Safety Access Point (PSAP) nearest the mobile device. In order to determine the appropriate (nearest) PSAP, location information for mobile device must be determined in timely fashion. There exists many ways to determine the location of a mobile device including: asking the user of the mobile device their location, providing the location of the cell site or base station transmitting the call, transmitting from the network the mobile device's geographic location or if the mobile device is equipped with Global Positioning System (GPS) technology, transmitting from the mobile device its geographic location. Once the PSAP that corresponds to the location of the mobile device is selected, the PSAP transmits the location information of the mobile device to the appropriate emergency personnel, and the user receives the help he needs.

Summary of Appellant Argument and Examiner's Response

In general, the appellant first argues that the prior art references do not teach determining a first position estimate of a mobile device then determining a second more accurate position estimate of the mobile device.

However, the examiner respectfully disagrees. Rhodes et al discloses a user of a mobile device initiating an emergency phone call. In doing so, information regarding the mobile device, such as the phone number of the initiating device and the location of the cell site serving the device, are provided by the mobile phone's carrier. The location of the cell site transmitting the emergency call provides an indication (estimate) of the

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mobile device's initial location so that the call can be routed to a fallback public safety answering point if a better location estimate is not received {paragraph [0057]}.

Therefore, a first position (location) estimate of the mobile device is disclosed. The location estimate is used to identify the particular PSAP assigned to the cell site serving the mobile device, instead of using a default PSAP that is pre-configured to handle emergency calls when no location information for the mobile device is available. Then the system goes for a better location such as latitude and longitude {paragraph [0060],[0070]} Thus, Rhodes et al teaches determining a first position estimate of a mobile device.

Secondly, the appellant argues that the prior art references do not teach determining a second position estimate of a mobile device which is more accurate than the first position estimate.

However, the examiner respectfully disagrees. Rhodes et al discloses once an emergency call is established, additional, more accurate, location information may be determined for the mobile device. The more accurate location information may include emergency service routing keys, the mobile device's latitude and longitude, a location estimate, an indication of how accurate the location estimate is and the age of the location estimate. Once more precise location information is known, this information is added (updated) to the emergency call already in progress. The more precise location information remains available to the system until the call is released. Thus, Rhodes et al teaches determining a second position estimate of a mobile device which is more accurate than the first position estimate.

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Therefore, the examiner contends that the limitations are taught and the rejections should stand.

Detailed Response to Argument

On pages 7-9, the appellant provides a summary of the method claim 17 and a brief summary of one embodiment of the primary reference Rhodes et al. Specifically, the applicant argues that Rhodes et al does not teach “determining a first estimate of a position of said user’s equipment within said radio coverage area”, “using a control point to select, based on said first position estimate which one of said at least two answering points the call is to be established with” and “when an at least one answering point has been selected ... determining a second, more accurate, position estimate”. The examiner respectfully disagrees. Rhodes et al teaches determining the location of a mobile device using the identity of the cell site sector serving the mobile device. The location information determined from the cell site sector is accurate enough for a control point to determine a relevant PSAP to route the call as opposed to a pre-configured default PSAP which is used when no location information is available. Once the call is established, when a second, more accurate location estimate is determined for the mobile device, the mobile device’s location information is updated and made available to the PSAP until the call is released. For these reasons in addition to the Grounds of Rejection and Examiner’s Response provided above, the examiner contends claim 17 is anticipated by Rhodes et al.

On pages 9-10, the appellant provides a summary of Rhodes et al, paragraphs [0057]-[0059], which is only one embodiment of the invention taught by Rhodes et al. Specifically, the applicant argues that Rhodes et al does not teach a “first position estimate”. The examiner respectfully disagrees. Rhodes et al further teaches that

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when an emergency call is made, a first location estimate of the mobile device is determined based on the cell site sector identification received from the mobile carrier. In identifying the location of the cell sector containing the mobile device, this provides an initial estimate of the mobile device's location. For these reasons, in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 10, the appellant argues "a second, more accurate, position estimate" is not taught. The examiner respectfully disagrees. Rhodes et al teaches after an initial estimate of the mobile device's location is determined, the emergency call is routed to a selected PSAP. While the call is in progress, a second location estimate is determined for the mobile device. The second location estimate determined is a more precise estimate of the mobile device's location, such as the latitude and longitude information of the mobile device. For these reasons in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 10, the appellant argues the first position estimate taught by Rhodes et al is not "a position of said user's equipment within said radio coverage area". The examiner respectfully disagrees. Rhodes et al teaches the first position estimate is based on the cell site sector (or base station) location from which the emergency call is transmitted. Since the estimate of the mobile device's location is determined based on the location of the base station handling the call, the first position estimate for the mobile device is within the radio coverage area of the cell. For these reasons in

addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 11, the appellant argues "which one of said at least two answering points the call is to be established with" is not taught, and therefore, a first position estimate is not taught. The examiner respectfully disagrees. Rhodes et al teaches a call may be routed to a default PSAP or to a PSAP based on the cell sector site location received from the mobile carrier. Therefore, at least two possible PSAPs are taught by Rhodes et al as viable candidates for which a call may be established. For these reasons in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 11, the appellant argues claim 17 is in condition for allowance as it is not anticipated by Rhodes et al. The examiner respectfully disagrees. The examiner has answered all arguments regarding claim 17. The Grounds of Rejection, Examiner's Response and Detailed Response to Argument provided herein disclose all argued limitations and therefore claim 17 is not in a condition for allowance.

On pages 11-12, the appellant argues dependent claim 18 is patentable as it incorporates the features presented within the independent claim 17. The examiner respectfully disagrees. The examiner contends the prior art of record discloses the limitations of the independent claim 17 as well as additional limitations of dependent claim 18, and therefore, dependent claim 18 is not in a condition for allowance.

On page 12, the appellant argues dependent claim 19 is patentable as it incorporates the features presented within the independent claim 17. The examiner

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respectfully disagrees. The examiner contends the prior art of record discloses the limitations of the independent claim 17 as well as additional limitations of dependent claim 19, and therefore, dependent claim 19 is not in a condition for allowance.

On pages 12-13, the appellant provides a summary of the apparatus claim 21 and a brief summary of one embodiment of the primary reference Rhodes et al. Specifically, the applicant argues that Rhodes et al does not teach “a call establisher configured to ... determine a first estimate of a position of said user’s equipment within said radio coverage area”, “use a control point to select, based on said first position estimate which one of said at least two answering points the call is to be established with” and “when an at least one answering point has been selected ... determine a second, more accurate, position estimate”. The examiner respectfully disagrees. Rhodes et al teaches determining the location of a mobile device using the identity of the cell site sector serving the mobile device. The location information for the cell site sector is accurate enough for a control point to determine a relevant PSAP to route the call as opposed to a pre-configured default PSAP which is used when no location information is available. Once the call is established, when a second, more accurate location estimate is determined for the mobile device, the mobile device’s location information is updated and made available to the PSAP until the call is released. For these reasons in addition to the Grounds of Rejection and Examiner’s Response provided above, the examiner contends claim 21 is anticipated by Rhodes et al.

On page 14, the appellant provides a summary of Rhodes et al, paragraphs [0057]-[0059], which is only one embodiment of the invention taught by Rhodes et al.

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Specifically, the applicant argues that Rhodes et al does not teach a “first position estimate”. The examiner respectfully disagrees. Rhodes et al further teaches that when an emergency call is made, a first location estimate of the mobile device is determined based on the cell site sector identification received from the mobile carrier. In identifying the location of the cell sector containing the mobile device, this provides an initial estimate of the mobile device's location. For these reasons, in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On pages 14-15, the appellant argues “a second, more accurate, position estimate” is not taught. The examiner respectfully disagrees. Rhodes et al teaches after an initial estimate of the mobile device's location is determined, the emergency call is routed to a selected PSAP. While the call is in progress, a second location estimate is determined for the mobile device. The second location estimate determined is a more precise estimate of the mobile device's location, such as the latitude and longitude information of the mobile device. For these reasons in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 15, the appellant argues the first position estimate taught by Rhodes et al is not “a position of said user's equipment within said radio coverage area”. The examiner respectfully disagrees. Rhodes et al teaches the first position estimate is based on the cell site sector (or base station) location from which the emergency call is transmitted. Since the estimate of the mobile device's location is determined based on

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the location of the base station handling the call, the first position estimate for the mobile device is within the radio coverage area of the cell. For these reasons in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 15, the appellant argues "which one of said at least two answering points the call is to be established with" is not taught, and therefore, a first position estimate is not taught. The examiner respectfully disagrees. Rhodes et al teaches a call may be routed to a default PSAP or to a PSAP based on the cell sector site location received from the mobile carrier. Therefore, at least two possible PSAPs are taught by Rhodes et al as viable candidates for which a call may be established. For these reasons in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 16, the appellant argues claim 21 is in condition for allowance as it is not anticipated by Rhodes et al. The examiner respectfully disagrees. The examiner has answered all arguments regarding claim 21. The Grounds of Rejection, Examiner's Response and Detailed Response to Argument provided herein disclose all argued limitations and therefore claim 21 is not in a condition for allowance.

On pages 16-18, the appellant provides a summary of the system claim 22 and a brief summary of one embodiment of the primary reference Rhodes et al. Specifically, the applicant argues that Rhodes et al does not teach "a location center configured to determine a first estimate of a position of said user's equipment within a radio coverage area", "a control point configured to select which of at least two answering points the call

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is to be established with based on said first position estimate” and “wherein ... when an at least one answering point has been selected ... a second, more accurate, position estimate is determined”. The examiner respectfully disagrees. Rhodes et al teaches determining the location of a mobile device using the identity of the cell site sector serving the mobile device. The location information for the cell site sector is accurate enough for a control point to determine a relevant PSAP to route the call as opposed to a pre-configured default PSAP which is used when no location information is available. Once the call is established, when a second, more accurate location estimate is determined for the mobile device, the mobile device’s location information is updated and made available to the PSAP until the call is released. For these reasons in addition to the Grounds of Rejection and Examiner’s Response provided above, the examiner contends claim 22 is anticipated by Rhodes et al.

On page 18, the appellant provides a summary of Rhodes et al, paragraphs [0057]-[0059], which is only one embodiment of the invention taught by Rhodes et al. Specifically, the applicant argues that Rhodes et al does not teach a “first position estimate”. The examiner respectfully disagrees. Rhodes et al further teaches that when an emergency call is made, a first location estimate of the mobile device is determined based on the cell site sector identification received from the mobile carrier. In identifying the location of the cell sector containing the mobile device, this provides an initial estimate of the mobile device’s location. For these reasons, in addition to the Examiner’s Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On pages 18-19, the appellant argues “a second, more accurate, position estimate” is not taught. The examiner respectfully disagrees. Rhodes et al teaches after an initial estimate of the mobile device’s location is determined, the emergency call is routed to a selected PSAP. While the call is in progress, a second location estimate is determined for the mobile device. The second location estimate determined is a more precise estimate of the mobile device’s location, such as the latitude and longitude information of the mobile device. For these reasons in addition to the Examiner’s Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 19, the appellant argues the first position estimate taught by Rhodes et al is not “a position of said user’s equipment within said radio coverage area”. The examiner respectfully disagrees. Rhodes et al teaches the first position estimate is based on the cell site sector (or base station) location from which the emergency call is transmitted. Since the estimate of the mobile device’s location is determined based on the location of the base station handling the call, the first position estimate for the mobile device is within the radio coverage area of the cell. For these reasons in addition to the Examiner’s Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On pages 19-20, the appellant argues “which one of said at least two answering points the call is to be established with” is not taught, and therefore, a first position estimate is not taught. The examiner respectfully disagrees. Rhodes et al teaches a call may be routed to a default PSAP or to a PSAP based on the cell sector site location

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received from the mobile carrier. Therefore, at least two possible PSAPs are taught by Rhodes et al as viable candidates for which a call may be established. For these reasons in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 20, the appellant argues claim 22 is in condition for allowance as it is not anticipated by Rhodes et al. The examiner respectfully disagrees. The examiner has answered all arguments regarding claim 22. The Grounds of Rejection, Examiner's Response and Detailed Response to Argument provided herein disclose all argued limitations and therefore claim 22 is not in a condition for allowance.

On page 20, the appellant argues dependent claim 31 is patentable as it incorporates the features presented within the independent claim 21. The examiner respectfully disagrees. The examiner contends the prior art of record discloses the limitations of the independent claim 21 as well as additional limitations of dependent claim 31, and therefore, dependent claim 31 is not in a condition for allowance.

On pages 20-21, the appellant argues dependent claim 32 is patentable as it incorporates the features presented within the independent claim 21. The examiner respectfully disagrees. The examiner contends the prior art of record discloses the limitations of the independent claim 21 as well as additional limitations of dependent claim 32, and therefore, dependent claim 32 is not in a condition for allowance.

On pages 21-22, the appellant provides a summary of the claim 34 and a brief summary of one embodiment of the primary reference Rhodes et al. Specifically, the applicant argues that Rhodes et al does not teach "means for determining a first

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estimate of a position of said user's equipment within a radio coverage area", "means for using a control point to select, based on said first position estimate, which of at least two answering points the call is to be established with" and "when an at least one answering point has been selected ... means for determining a second, more accurate, position estimate". The examiner respectfully disagrees. Rhodes et al teaches a location center for determining the location of a mobile device using the identity of the cell site sector serving the mobile device. The location information for the cell site sector is accurate enough for a control point to determine a relevant PSAP to route the call as opposed to a pre-configured PSAP which is used when no location information is available. Once the call is established, when a second, more accurate location estimate is determined for the mobile device, such as the mobile device's latitude and longitude, the mobile device's location information is updated and made available to the PSAP until the call is released. For these reasons in addition to the Grounds of Rejection and Examiner's Response provided above, the examiner contends claim 34 is anticipated by Rhodes et al.

On page 23, the appellant provides a summary of Rhodes et al, paragraphs [0057]-[0059], which is only one embodiment of the invention taught by Rhodes et al. Specifically, the applicant argues that Rhodes et al does not teach a "first position estimate". The examiner respectfully disagrees. Rhodes et al further teaches that when an emergency call is made, a first location estimate of the mobile device is determined based on the cell site sector identification received from the mobile carrier. In identifying the location of the cell sector containing the mobile device, this provides

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an initial estimate of the mobile device's location. For these reasons, in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On pages 23-24, the appellant argues "a second, more accurate, position estimate" is not taught. The examiner respectfully disagrees. Rhodes et al teaches after an initial estimate of the mobile device's location is determined, the emergency call is routed to a selected PSAP. While the call is in progress, a second location estimate is determined for the mobile device. The second location estimate determined is a more precise estimate of the mobile device's location, such as the latitude and longitude information of the mobile device. For these reasons in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 24, the appellant argues the first position estimate taught by Rhodes et al is not "a position of said user's equipment within said radio coverage area". The examiner respectfully disagrees. Rhodes et al teaches the first position estimate is based on the cell site sector (or base station) location from which the emergency call is transmitted. Since the estimate of the mobile device's location is determined based on the location of the base station handling the call, the first position estimate for the mobile device is within the radio coverage area of the cell. For these reasons in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 24, the appellant argues “which one of said at least two answering points the call is to be established with” is not taught, and therefore, a first position estimate is not taught. The examiner respectfully disagrees. Rhodes et al teaches a call may be routed to a default PSAP or to a PSAP based on the cell sector site location received from the mobile carrier. Therefore, at least two possible PSAPs are taught by Rhodes et al as viable candidates for which a call may be established. For these reasons in addition to the Examiner’s Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On pages 24-25, the appellant argues claim 34 is in condition for allowance as it is not anticipated by Rhodes et al. The examiner respectfully disagrees. The examiner has answered all arguments regarding claim 34. The Grounds of Rejection, Examiner’s Response and Detailed Response to Argument provided herein disclose all argued limitations and therefore claim 34 is not in a condition for allowance.

On pages 25-27, the appellant provides a summary of the computer-readable medium claim 35 and a brief summary of one embodiment of the primary reference Rhodes et al. Specifically, the applicant argues that Rhodes et al does not teach “determining a first estimate of a position of said user’s equipment within a radio coverage area”, “using a control point to select, based on said first position estimate, which of at least two answering points the call is to be established with” and “when an at least one answering point has been selected ... determining a second, more accurate, position estimate”. The examiner respectfully disagrees. Rhodes et al teaches a determining the location of a mobile device using the identity of the cell site sector

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serving the mobile device. The location information for the cell site sector is accurate enough for a control point to determine a relevant PSAP to route the call as opposed to a pre-configured default PSAP which is used when no location information is available. Once the call is established, when a second, more accurate location estimate is determined for the mobile device, such as the mobile device's latitude and longitude, the mobile device's location information is updated and made available to the PSAP until the call is released. For these reasons in addition to the Grounds of Rejection and Examiner's Response provided above, the examiner contends claim 35 is anticipated by Rhodes et al.

On page 27, the appellant provides a summary of Rhodes et al, paragraphs [0057]-[0059], which is only one embodiment of the invention taught by Rhodes et al. Specifically, the applicant argues that Rhodes et al does not teach a "first position estimate". The examiner respectfully disagrees. Rhodes et al further teaches that when an emergency call is made, a first location estimate of the mobile device is determined based on the cell site sector identification received from the mobile carrier. In identifying the location of the cell sector containing the mobile device, this provides an initial estimate of the mobile device's location. For these reasons, in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On pages 27-28, the appellant argues "a second, more accurate, position estimate" is not taught. The examiner respectfully disagrees. Rhodes et al teaches after an initial estimate of the mobile device's location is determined, the emergency call

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is routed to a selected PSAP. While the call is in progress, a second location estimate is determined for the mobile device. The second location estimate determined is a more precise estimate of the mobile device's location, such as the latitude and longitude information of the mobile device. For these reasons in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 28, the appellant argues the first position estimate taught by Rhodes et al is not "a position of said user's equipment within said radio coverage area". The examiner respectfully disagrees. Rhodes et al teaches the first position estimate is based on the cell site sector (or base station) location from which the emergency call is transmitted. Since the estimate of the mobile device's location is determined based on the location of the base station handling the call, the first position estimate for the mobile device is within the radio coverage area of the cell. For these reasons in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On pages 28-29, the appellant argues "which one of said at least two answering points the call is to be established with" is not taught, and therefore, a first position estimate is not taught. The examiner respectfully disagrees. Rhodes et al teaches a call may be routed to a default PSAP or to a PSAP based on the cell sector site location received from the mobile carrier. Therefore, at least two possible PSAPs are taught by Rhodes et al as viable candidates for which a call may be established. For these

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reasons in addition to the Examiner's Response provided above, the examiner contends that the claimed feature is taught by Rhodes et al.

On page 29, the appellant argues claim 35 is in condition for allowance as it is not anticipated by Rhodes et al. The examiner respectfully disagrees. The examiner has answered all arguments regarding claim 35. The Grounds of Rejection, Examiner's Response and Detailed Response to Argument provided herein disclose all argued limitations and therefore claim 35 is not in a condition for allowance.

On pages 29-31, the appellant provides a brief summary of one embodiment of the primary reference Rhodes et al and of the secondary reference Maanoja et al. Specifically, the appellant argues that it is not obvious to combine the references of Rhodes et al and Maanoja et al. The examiner respectfully disagrees. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In the instant case, the references used were references concerned with the same technology of determining an accurate location of a mobile device for the routing of emergency calls. Maanoja et al teaches an emergency call from an initiating mobile device automatically triggers a request for determining the location of the device. Also, the suggestion to combine the references

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was taught within the secondary reference as cited in the motivation statement of the final rejection and within the background of the secondary reference.

Further the examiner must point out that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Thus the examiner contends that the obviousness rejection was proper as the references are combinable and the rejection should stand.

On page 31, the appellant argues dependent claim 20 is patentable as it incorporates the features presented within the independent claim 17. The examiner respectfully disagrees. The examiner contends the prior art of record discloses the limitations of the independent claim 17 as well as additional limitations of dependent claim 20, and therefore, dependent claim 20 is not in a condition for allowance.

On pages 31-32, the appellant argues dependent claim 33 is patentable as it incorporates the features presented within the independent claim 21. The examiner respectfully disagrees. The examiner contends the prior art of record discloses the limitations of the independent claim 21 as well as additional limitations of dependent claim 33, and therefore, dependent claim 33 is not in a condition for allowance.

On page 32, the appellant argues the rejection is in error and that the present invention would not be anticipated or obvious to one of ordinary skill in the art at the

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time the invention was made. The examiner respectfully disagrees. The examiner has responded to all arguments presented. The Grounds of Rejection, Examiner's Response and Detailed Response to Argument provided herein disclose all argued limitations and therefore claims 17-22 and 31-35 are not in a condition for allowance.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Tangela T. Chambers/

November 17, 2009

Conferees:

/NICK CORSARO/

Supervisory Patent Examiner, Art Unit 2617

/George Eng/

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